



U.S. Department of Justice

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DMK/JMK:DCP/JPM/JPL/GMM
F. #2012R02196

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July 13, 2018

By ECF

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. OZ Africa Management GP, LLC
Criminal Docket No. 16-515 (NGG)

Dear Judge Garaufis:

The government respectfully submits this letter in response to the June 28, 2018 letter and exhibits filed by former shareholders (the "Claimants") of Africo Resources Ltd. ("Africo") who are seeking restitution from OZ Africa Management GP, LLC, the defendant in the above-referenced matter ("OZ Africa" or the "defendant").

As noted in the Claimants' letter, the government met with attorneys for the Claimants on April 19, 2018. During the meeting, the Claimants' attorneys presented and discussed documents purporting to show that a former Africo employee (the "Former Employee") never actually took possession of, and thus did not "steal," Africo's mining rights. This new information does not change the government's position that the Claimants are not entitled to restitution.

In its March 2, 2018 letter, the government stated that the Former Employee obtained Africo's claim to the Kalakundi mine through an irregular court proceeding in the Democratic Republic of the Congo (the "DRC") and then sold that claim to Akam Mining SPRL ("Akam") for \$600,000. The Claimants' new evidence appears to show that Akam bought Africo's interest in Kalakundi for \$600,000 through an auction held by a DRC court, which apparently sold Kalakundi for the benefit of the Former Employee. The government does not believe that this new information changes the analysis. Whether the Former Employee directly sold Kalakundi to Akam, or the DRC court sold Kalakundi to Akam for the benefit of the Former Employee, the result is the same. The government remains unaware of evidence establishing a causal connection between the initial taking of Kalakundi from Africo and the actions of the defendant or its co-conspirators.

In their June 28, 2018, letter, the Claimants also presented arguments supporting their restitution claims that are reminiscent of arguments that the Claimants made in their original letter. In response, the government respectfully refers the Court to the reasoning set forth in the government's March 2, 2018 letter to the Court (ECF No. 39) and during the hearing on April 5, 2018.¹

For these reasons, the government respectfully requests that the Court deny the Claimants' restitution request and proceed to sentencing in this matter.

Respectfully submitted,

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cc: Clerk of the Court (NGG) (by ECF)
All Counsel of Record (by ECF)

¹ The defendant's submissions on restitution (ECF Nos. 37 and 47) raise a number of additional bases on which to deny the Claimants' request for restitution.